

EXHIBIT 2

March 3, 2022

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHERROD, TEED, VANDERHAGEN and WARE,

Plaintiffs,

-v-

Case No. 17-10164

VNA and LAN,

Defendants.

/

JURY TRIAL

BEFORE THE HONORABLE JUDITH E. LEVY
UNITED STATES DISTRICT JUDGE

MARCH 3, 2022

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**TO OBTAIN A
CERTIFIED
TRANSCRIPT:**

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FEDERAL OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
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March 3, 2022

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JEFFREY HANSEN

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1 Now, if you can turn to Tab 55. This was an
2 evaluation, an observation evaluation report by LAN, correct,
3 for the TTHM issue? Or it's part of it?

4 A. It's -- yeah. I've got just a single page here.

5 Q. Well, you have two pages, because they're double-sided,
6 right?

7 A. Correct.

8 MR. MAIMON: And it says -- on the back it says, "2
9 of 16." I'm only going to use the front, but I'll supplement
10 the rest of it later, Your Honor. But we would offer
11 Exhibit 1996 into evidence.

12 MR. MASON: As long as counsel's going to provide 3
13 through 16, ultimately, we have no objection.

14 MR. MAIMON: Assuming we have it, I'll put it in.

15 THE COURT: Okay. Any objection, Mr. Stein?

16 MR. STEIN: No objection, Your Honor.

17 THE COURT: Okay. Then 1996 is received.

18 (Plaintiff Exhibit No. 1996 Admitted Into Evidence)

19 BY MR. MAIMON:

20 Q. So remember that in the first draft there was Stage 1 and
21 Stage 2. Stage 2 is what you would do, and then Stage 2 was
22 contingent if it didn't work, right?

23 A. Yes.

24 Q. Okay. So under Stage 1, one of the immediate actions here
25 from LAN is "Increasing ferric feed has demonstrated improved

1 TOC removal," right?

2 A. Yes.

3 Q. And as we saw from the schematic in Exhibit 2012, there
4 was a feed of ferric chloride at the plant, correct?

5 A. Correct.

6 Q. And one of the recommendations that LAN made to the City
7 of Flint is to increase the ferric chloride feed -- the amount
8 of ferric chloride, the dose of the ferric chloride, correct?

9 A. That statement reads that, "Increasing ferric has
10 demonstrated improved TOC removal."

11 Q. And it's listed under "Immediate Actions," right?

12 A. Yes. And the heading immediately above it says,
13 "Potential Modifications" --

14 Q. Okay. So it's saying -- right. We should consider this,
15 right?

16 A. Correct.

17 Q. Okay. Now -- oh, good. Okay. Now, if you can turn to
18 Tab 57. Oh, before we do that. I told you we'd get back
19 there, but we're going to take one more. Tab -- we did 55.
20 Okay. Well, let's go to Tab 57.

21 This was the email from Daugherty Johnson to Warren
22 Green and Samir Matta, correct?

23 A. Correct.

24 Q. Now, there came a point in time in 2015, in early 2015,
25 when you learned that the City of Flint had retained another

1 BY MR. MAIMON:

2 Q. If you look at the Bates page starting 4668, Mr. Hansen?

3 A. Okay.

4 Q. Can you confirm for us that this is LAN's final report on
5 the TTHM issue?

6 A. No. LAN prepared this report quarterly after each TTHM
7 sampling period.

8 Q. Okay.

9 A. So this was -- this was the final report in February of --
10 27th, it appears.

11 Q. Okay. So this is the final report for February 27, 2015,
12 correct?

13 A. Yes.

14 MR. MAIMON: Okay. Your Honor, we would offer 3675
15 into evidence. And I'm only going to be talking about, at
16 this point, the operation evaluation report by LAN.

17 THE COURT: Okay. Mr. Mason?

18 MR. MASON: No objection.

19 MR. STEIN: No objection, Your Honor.

20 THE COURT: Okay. Then it will be received.

21 (Plaintiff Exhibit No. 3675 Admitted Into Evidence)

22 BY MR. MAIMON:

23 Q. So it does have the stamp final on it, right?

24 A. Yes.

25 Q. And unlike the November report from beforehand, this is

1 not marked draft, is it?

2 A. Correct.

3 Q. And it's dated February 27, 2015, correct?

4 A. Yes.

5 Q. Again, LAN, in its report in February, identifies the same
6 possible contributing factors to the high TTHM levels, correct?

7 A. Yes.

8 Q. And, again, corrosion control or lack of corrosion control
9 is not identified as a possible contributing factor, true?

10 A. Right.

11 THE COURT: Mr. Maimon, what page was that?

12 MR. MAIMON: That was 4669.

13 THE COURT: Okay. Thank you.

14 BY MR. MAIMON:

15 Q. Now, on page 4671 is, again, that section, "Immediate
16 Actions," right?

17 A. Yes.

18 Q. And on the bottom, this time it says, "Increased ferric
19 doses have been implemented at the water treatment plant based
20 on positive jar test results," right?

21 A. Yes.

22 Q. And did LAN conduct those jar testing?

23 A. Yes.

24 Q. Okay. So LAN did testing -- withdrawn.

25 In November, LAN said, "Hey, increasing the dose of

1 ferric chloride might be something that we should try. Let's
2 do some testing." It did some jar testing. It recommended
3 it. And it was done.

4 It was implemented, right?

5 A. The LAN jar testing involved multiple dosages of ferric
6 chloride.

7 Q. Right. But this is actually saying that this is beyond
8 the testing phase, that increased ferric doses have been
9 implemented at the treatment plant based on your jar testing,
10 right?

11 A. Correct.

12 Q. Okay. So the city -- you recommended it, the city did it,
13 right? Increasing the ferric chloride?

14 A. It was mentioned that it could help with the TTHM removal
15 or reduction.

16 Q. They followed your recommendation, correct?

17 A. I'm not sure if they followed a recommendation or if they
18 had already done that.

19 Q. Well it says, "Increased ferric doses have been
20 implemented at the water treatment plant based on positive jar
21 test results," right?

22 A. Yes.

23 Q. LAN did the jar testing, correct? Correct.

24 A. Correct.

25 Q. Based on the -- I'm sorry.

1 Based on the jar test results, LAN recommended
2 increasing the dose of ferric chloride, correct?

3 A. That's what it reads there.

4 Q. Okay. And this is the LAN report, isn't it?

5 A. Yes.

6 Q. In addition here -- withdrawn.

7 We'll get there in a minute.

8 When LAN recommended the increased dosing of ferric
9 chloride, it did nothing to make sure that its recommendations
10 had no negative consequences, correct?

11 A. This is getting outside my realm of expertise. But it was
12 my understanding that the dosages were not abnormal. So there
13 were no evident consequences.

14 Q. Well, you knew at that time, that very high levels of
15 ferric chloride could be detrimental to water quality and make
16 the water more corrosive.

17 You knew that at that time, correct?

18 A. Very high dosages, you said?

19 Q. Yes. Of ferric chloride?

20 A. I had a general understanding of that.

21 Q. Okay. And you know that -- well, first of all, you
22 yourself did absolutely no testing to make sure that the
23 recommendation of the dosages of ferric chloride that were
24 implemented wouldn't have negative consequences.

25 You didn't do any testing to make sure it wouldn't

1 adversely affect the system, correct?

2 A. Correct. Our testing was limited to the TTHM issue.

3 Q. Right. But you didn't -- and you didn't ask Warren Green
4 whether or not the ferric chloride dosages recommended by LAN
5 could create a serious problem with corrosion of the water,
6 correct?

7 A. I did not ask that question. But we had discussed it.

8 THE COURT: But we had the what?

9 THE WITNESS: We had discussed the levels or dosages
10 of ferric chloride.

11 THE COURT: Okay.

12 BY MR. MAIMON:

13 Q. Can you turn to the transcript binder, the first volume
14 from August 19 of 2020. And in the box, turn to page 204.

15 A. Okay.

16 Q. And if you can look at line 16.

17 Question -- well, let's take a look starting at line
18 5.

19 "So you used your quote/unquote sum knowledge to
20 determine that the ferric chloride doses that you were
21 recommending wouldn't have an unintended consequence of making
22 the water so corrosive that there would be significant lead
23 contamination.

24 Is that a judgment that you made?"

25 Answer. "Ferric chloride dosages are something that

1 I would defer to Warren on."

2 Do you see that?

3 A. Yes.

4 Q. And that's true, you would defer to Mr. Green about that,
5 correct?

6 A. Correct.

7 Q. "Q. Okay. Did you ask him that question, whether the
8 ferric chloride dosages recommended by LAN could create a
9 serious problem with corrosive water and lead contamination?"

10 And what was your answer at that time, Mr. Hansen?

11 MR. MASON: Your Honor, objection. 401. And we may
12 need to have a sidebar.

13 THE COURT: Okay. Let's see. If we have a sidebar,
14 our jurors have two choices. You can stretch, stay here.
15 We'll exit to the back and come right back in or go back up to
16 the jury room.

17 Any feedback from our jurors? You don't mind. Okay.
18 Why don't -- then we'll just go in the back briefly, talk out
19 of your presence and be right back.

20 (Sidebar Conference)

21 THE COURT: What is --

22 MR. MASON: The issue of ferric chloride and TTHM
23 work has been -- had been withdrawn from their claims in this
24 case. There is no -- and we went through this with their
25 expert and the like. And so if they're out of the case, we

1 shouldn't be asking about ferric chloride and what negative
2 impact.

3 They don't have any expert opinion on it, and there's
4 no basis to suggest it was improper. And so we shouldn't be
5 talking about it.

6 MR. MAIMON: So this goes to the standard of care and
7 the carefulness of this company, Your Honor, which is at issue
8 that here they're making. And it didn't have to be ferric
9 chloride. It could have been something that they recommended
10 in the plant.

11 And the failure, when you make recommendations, when
12 you know that a substance can cause --

13 THE COURT: I know. But respond to what Mr. Mason's
14 saying about whether your expert provided any opinion on this.

15 MR. MAIMON: So, for instance, Dr. Hoaglund testified
16 very clearly on Monday -- was it Monday? Or Tuesday. I'm
17 losing track of time -- that the increase in ferric chloride
18 increased the corrosivity of the water.

19 THE COURT: Okay.

20 MR. MASON: And from a chemistry standpoint, not in
21 this case --

22 MR. MAIMON: Excuse me --

23 THE COURT: Well, this is --

24 MR. MAIMON: He said that for the water coming out of
25 the plant, the ferric chloride increase in dosage, and he

1 showed it increased the corrosivity. He did the equation for
2 it.

3 THE COURT: I know. But are you now getting back
4 into a TTHM ferric chloride claim?

5 MR. MAIMON: This has nothing to do with TTHM, Your
6 Honor.

7 THE COURT: Okay. Run that by me again then.

8 MR. MAIMON: Sure.

9 LAN has a duty of care, and they have to act
10 reasonably under the circumstances. They're making
11 recommendations at the plant to deal with TTHM, which is not
12 lead.

13 We assert that, by the way, the same underlying
14 causes that caused the lead to leach out caused the TTHM. But
15 that's -- we'll be held to our proofs on that.

16 However, the failure of the company when making
17 recommendations to even test and make sure that their
18 recommendations are not going to make matters worse or to
19 adverse impact shows that this is not a careful company.

20 This is a company -- because the testimony that
21 Mr. Hansen is going to give, because I have it ready, is that
22 they didn't do that, because that was beyond the scope.

23 They could recommend solutions for TTHM, but it was
24 -- outside of their scope to determine whether that would have
25 adverse impacts. Therefore, they didn't have to test for it.

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1 And therefore, he didn't care about it.

2 To us, that is contrary to the careful engineering
3 Mr. Mason advocated was the hallmark of the company.

4 MR. MASON: You want to address?

5 MR. KENT: Judge, you will remember this was a big
6 part of the Daubert and the summary judgment motions. And we
7 put it on the record, and you've written it that they
8 affirmatively stood up and withdrew all claims about the TTHM
9 and the ferric chloride.

10 In the pleading that's a big part of the claim.

11 THE COURT: I understand that. He's saying he's
12 using it for a different purpose to show generally.

13 MR. KENT: Judge, it can't be for a different
14 purpose.

15 MR. MASON: Hold on. It's a backdoor way having
16 withdrawn it. It's improper, Judge. It's a backdoor way of
17 getting -- trying to suggest that we did something wrong. And
18 that's the problem here.

19 THE COURT: So tell me -- tell me where you're going
20 next with this.

21 MR. MAIMON: Sure. The reason -- he testifies -- and
22 I have the transcript here. He testifies that they didn't
23 test to see if what they were recommending for TTHM wasn't
24 going to make the water more dangerously corrosive, because he
25 felt it wasn't defined in the scope of his work.

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1 THE COURT: I see.

2 MR. MAIMON: That is the basis for the defense here.
3 Wasn't in our scope. Wasn't in our scope.

4 But we believe that this carries through for this
5 company that they define their scope so narrowly that they
6 don't have to do what a reasonable professional engineer
7 should do, and it carries over and it's corroborative of our
8 theory when it comes to the corrosion control.

9 THE COURT: So is this evidence of a prior incident
10 of negligence?

11 MR. MAIMON: This is not prior. This is a consistent
12 pattern and practice of the company that they avoid
13 responsibility and avoid doing the right thing by saying, "not
14 within our scope."

15 MR. MASON: There's no testimony to that effect with
16 respect to this. And they're just trying to backdoor some
17 other --

18 THE COURT: I think he just read the testimony. What
19 page is it on?

20 MR. MAIMON: Well, on page 201 of his deposition, the
21 question was, "Well, who would have made the decision not to
22 test the recommended solutions to find out if there were other
23 unintended consequences or negative effects from the proposed
24 solutions to the TTHM problem?"

25 "A. That's me as an item that would be defined in

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1 the scope. And I did not prepare the scope for this."

2 MR. MASON: Nobody -- excuse me. Excuse me. I'm
3 sorry. Go ahead. Are you done?

4 THE COURT: But he's just saying, "I didn't prepare
5 the scope." He's not saying, "It's not within our scope."
6 He's just saying, "I'm not the one who figured out the scope."

7 MR. MAIMON: Well, he says that -- hold on a second.

8 THE COURT: It's a confusing answer to the question.
9 Let's find a way -- I mean, you can't bring a negligence claim
10 based on the TTHM.

11 MR. MAIMON: We're not.

12 THE COURT: Okay. So I think you need to find a way
13 to move on from this. Because it's -- I think it's veering
14 into that area. And he just says, "I did not prepare the
15 scope" --

16 MR. MAIMON: Here. So if I can point the Court
17 page 202, on line 4.

18 "So you're saying that even though LAN came up with
19 those suggestions, LAN wouldn't have had a scope to make sure
20 those suggestions weren't making other problems worse.

21 A. I'm saying that the scope defined that we were to
22 evaluate issues related to TTHM. The scope did not say to
23 test other components of the system."

24 THE COURT: Okay. So now what he's saying is that as
25 an employee project manager on this project, he says, "We do

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1 what's in our scope. And it just doesn't matter to us what
2 else happens.

3 So we're not -- that's no longer saying, "Well,
4 ferric chloride has this reaction by a chemist. It's just
5 simply that's not our job."

6 MR. MASON: That's what they're asking -- they set
7 this whole thing up talking about ferric chloride and
8 recommendations and making things worse. That's the problem.

9 THE COURT: Okay.

10 MR. MASON: Because that's why I stopped to ask Your
11 Honor to address it. And now they want to back off and just
12 say, "Well, it's just a question of scope."

13 THE COURT: But that's because you've been successful
14 with your objection. So what we'll do is proceed with this
15 issue of scope. But we won't get into whether ferric chloride
16 made --

17 MR. MAIMON: Right. And the only reason I raised it,
18 Your Honor --

19 THE COURT: Just let me finish.

20 MR. MAIMON: I'm sorry.

21 THE COURT: Made the problem worse with corrosivity.

22 MR. MAIMON: Right. But the -- excuse me. That was
23 the -- it can't be divorced from its context. That was the
24 context of what he was speaking about.

25 THE COURT: But just what you'll do is you'll finish

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1 this portion and then move on.

2 MR. MAIMON: Correct.

3 THE COURT: You won't go into the chemistry of ferric
4 chloride's impact.

5 MR. MAIMON: Correct. Correct.

6 THE COURT: Okay.

7 MR. MASON: And on the record, the objection will be
8 sustained with a qualification to allow a follow-up question?

9 THE COURT: Correct. Sustained to the extent that it
10 did start to sound like you were veering into whether there's
11 a separate claim for negligence based on addition of --
12 addition of ferric chloride to address TTHM.

13 MR. MAIMON: Understood, Your Honor.

14 THE COURT: And now we understand you're going to
15 limit it to the issues regarding scope.

16 MR. MASON: Your Honor, are you going to take a break
17 for everyone or should I --

18 THE COURT: Go right ahead.

19 (Open Court)

20 THE COURT: Everybody's back. Go ahead.

21 MR. STEIN: Your Honor, could we get a ruling on the
22 record?

23 THE COURT: You have a ruling. Jeseca goes back with
24 us. So the objection was ruled upon and was sustained to a
25 certain extent. And now we're going to proceed.

1 MR. MAIMON: Sure.

2 BY MR. MAIMON:

3 Q. I'd like to draw your attention to page 202 of that
4 transcript, Mr. Hansen.

5 A. Okay.

6 Q. Starting on line 4, it says, "So you're saying even though
7 LAN came up with those suggestions, LAN wouldn't have had a
8 scope to make sure those suggestions weren't making other
9 problems worse.

10 A. I'm saying that the scope defined that we were to
11 evaluate issues related to TTHM. The scope did not say to test
12 other components of the system.

13 Q. Okay. Well, isn't it important to consider the
14 damage that your proposed solutions might do to the water
15 system?

16 A. Well, it's the city's responsibility to run the
17 plant overall."

18 Those were your answers to those questions, correct?

19 A. Yes.

20 Q. Okay. So let's go back to the February 27, 2015, report.
21 And you see under "Immediate Actions" what the first "Immediate
22 Action" bullet point is hire third-party quality -- I'm
23 sorry -- "hire third-party quality water" -- I'm sorry. I'm
24 tired. I apologize.

25 "Hire third-party water quality expert to complete

1 deal with the dirt?

2 A. Yep. I mean, geotechnical, transportation, hydrology,
3 hydraulics, water treatment, cathodic protection. There are
4 many categories.

5 Q. So a doctor who specializes in internal medicine has a
6 medical degree, but it's likely you're not going to have him do
7 brain surgery on you, right?

8 MR. MAIMON: Objection.

9 THE COURT: Rephrase that a little bit differently.

10 MR. MASON: Sure.

11 BY MR. MASON:

12 Q. The fact that there are doctors that perform internal
13 medicine and see people on a regular basis, correct?

14 MR. MAIMON: I object, Your Honor. It's irrelevant
15 about doctors.

16 THE COURT: Go ahead. This is his opportunity to
17 discuss this.

18 BY MR. MASON:

19 Q. Just trying to help understand --

20 MR. MAIMON: And I object to the explanation, Your
21 Honor.

22 THE COURT: Okay. It's overruled.

23 BY MR. MASON:

24 Q. A doctor who specializes in internal medicine has a
25 medical degree, but it's likely you're not going to have him do

1 brain surgery on you, correct?

2 A. I would agree.

3 Q. Your references to laying your expertise talked about
4 design related to and construction related to water treatment.

5 Can you explain what that means versus what Mr. Green
6 does.

7 A. Yes. I've had some experience with groundwater treatment
8 plants, which means it's getting its water source from ground
9 -- from groundwater. Surface water treatment plants are much
10 more complicated, and there's a lot more chemistry involved.

11 Warren's had experience designing and operating water
12 treatment plants. Frankly, he just knows a lot more about it
13 than I do.

14 Q. Okay. So let's move on to your role in the project then.
15 Beginning in May of 2013, did you -- I think counsel's already
16 established that you attended some meetings with Warren,
17 correct?

18 A. Correct.

19 Q. And was your role -- tell us what your role was at that
20 meeting, those meetings?

21 A. Yeah, in general in the project, Warren was the lead
22 engineer and lead water treatment designer at LAN. I was there
23 to assist him however I could. My role is minimal in the
24 beginning in particular.

25 Later, my role was next to nothing for late 2013

1 through late 2014. And then I had a little more involvement
2 later working on the THM report and associated improvements
3 there.

4 Q. So -- and I mean no disrespect. But you took a lot of
5 notes in these meetings.

6 Were you the notetaker?

7 A. I really wouldn't say that. I was at those meetings, and
8 I always take knows.

9 Q. Okay.

10 A. I usually take notes at meetings I go to. So I did that.

11 Q. Okay. And I think you referenced earlier in response to
12 Mr. Maimon's questions that you checked, actually, your number
13 of hours you worked on this project, correct?

14 A. A little bit, yes.

15 Q. And so in the timeframe between May and August of 2013 --
16 and just so we have a reference point. The spigot was opened
17 in April 25 of 2014, right?

18 MR. MASON: Can you put that up, please, Bobby, the
19 demonstrative?

20 THE WITNESS: I believe that's about right.

21 MR. MASON: Can you see that on your screen?

22 BY MR. MASON:

23 Q. So that red line shows the day that I keep calling the
24 spigot was opened, right?

25 A. Okay. Yes.

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1 MR. MAIMON: So Your Honor has already ruled on
2 Benes, Lawrence, and Chen also.

3 THE COURT: Right.

4 MR. MAIMON: And then the next priority is Gadis,
5 Gnagy --

6 THE COURT: Is it Gnagy? Oh, well.

7 MR. MAIMON: Gnagy. And Nicholas.

8 THE COURT: Okay. So I will get --

9 MR. MAIMON: And I think those have been -- the
10 updated versions have been provided to the Court.

11 THE COURT: I think they have, too. Okay.

12 Thank you, everybody. Take care.

13 MR. MAIMON: Thank you, Your Honor.

14 (Proceedings Concluded)

15 - - -

16

17 CERTIFICATE OF OFFICIAL COURT REPORTER

18 I, Jeseca C. Eddington, Federal Official Court
19 Reporter, do hereby certify the foregoing 164 pages are a true
20 and correct transcript of the above entitled proceedings.

21 /s/ JESECA C. EDDINGTON
22 Jeseca C. Eddington, RDR, RMR, CRR, FCRR

3/3/2022
Date

23

24

25